UNITED STATES DISTRICT COURT NORTHERN DISTRICT OF IOWA

Caitlin Rombough, on behalf of herself and others similarly situated

No. 1:22-cv-00015 CJW-MAR

Plaintiff,

v.

Robert D. Smith Insurance Agency, Inc., and : State Farm Mutual Automobile Insurance : Company, :

DEFENDANTS' MOTION TO DISMISS

Defendants. :

For their Motion to Dismiss Plaintiff's Complaint pursuant to Fed. R. Civ. P. 12(b)(6), Defendants, Robert D. Smith Insurance Agency, Inc., and State Farm Mutual Automobile Insurance Company, state:

- 1. Plaintiff Caitlin Rombough alleges that Defendants violated 47 U.S.C. § 227(c)(5) and its implementing regulation, 47 C.F.R. § 64.1200(c) causing her damage. Ms. Rombaugh also seeks certification of a nationwide class of persons similarly contacted by Defendants.
- 2. Plaintiff fails to state a claim upon which relief can be granted because she failed to allege that she herself registered her telephone number on the national do-not-call registry of persons who do not wish to receive telephone solicitations that is maintained by the Federal Government as required by regulations enacted by the FCC. 47 C.F.R. § 64.1200(c).
- 3. For these and other reasons set forth in Defendants' brief in support of their Motion to Dismiss, Plaintiff's Complaint should be dismissed.

WHEREFORE, Defendants pray that Plaintiff's Complaint be dismissed with prejudice with costs assessed to Plaintiff.

LEDERER WESTON CRAIG PLC

By: <u>/s/ J. Michael Weston</u>

J. Michael Weston AT0008405 118 – 3rd Avenue SE, Suite 700

P. O. Box 1927

Cedar Rapids, IA 52406-1927 Telephone: (319) 365-1184

Fax: (319) 365-1186

E-mail: mweston@lwclawyers.com

James P. Gaughan (Ill. #6204406)

(admitted *pro hac vice*)

RILEY SAFER HOLMES & CANCILA LLP

70 West Madison Street, Suite 2900

Chicago, Illinois 60602 Telephone: (312) 471-8700

Fax: (312) 471-8701

E-mail: jgaughan@rshc-law.com

ATTORNEYS FOR DEFENDANTS

CERTIFICATE OF SERVICE

I hereby certify that on the 15th day of April 2022, I electronically filed the foregoing with the Clerk of the U.S. District Court for the Northern District of Iowa, using the ECF system which will send notification of such filing to all counsel of record.

Executed on this 15th day of April 2022, in Cedar Rapids, Iowa.

/s/ *J. Michael Weston*J. Michael Weston